HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE Ms. JUSTICE G. ROHINI

Writ Appeal No.508 of 2007

Between:

M/s.Godavari Fertilisers & Chemicals Ltd.
Represented by its Assistant General Manager,
R.V. Subrahmanyam.

… Appellant

And

U. Ganapathi Rao and another

… Respondents

Counsel for the appellant: Shri C.R. Sridharan

Counsel for the respondents: Shri K.L.N.Rao for
Shri M. Kesava Rao,
Advocate

::JUDGMENT::

October 30, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 05.2.2007 passed by the learned Single Judge whereby he allowed the writ

petition filed by the respondents in the matter of payment of arrears allegedly due to them on account of revision of pay scales in terms of order dated 17.1.2007 passed in Writ Petition No.27035 of 1996.

Shri C.R. Sridharan, learned counsel for the appellant invited our attention to the judgment of the Division Bench in Writ Appeal No.529 of 2000 – Hindustan Dorr-Oliver Limited v. the Godavari Fertiliser & Chemicals Limited and others, decided on 15.09.2000 and argued that in view of the categorical finding recorded by the Division Bench that the appellant company does not fall within the ambit of the term 'other authorities' appearing in Article 12 of the Constitution, the writ petition filed by the respondents was not maintainable and the learned Single Judge committed serious error by entertaining and allowing the same. Shri Sridharan pointed out that objection to the maintainability of the writ petition was specifically taken in para 2 of the counter-affidavit filed on behalf of the appellant by its Deputy General Manager (FO) and incharge P & A Department – Shri C.V.N. Sastry, but without adverting to the factual matrix of the case and taking cognizance of the objection and the judgment of the Division Bench in Writ Appeal No.529 of 2000, the learned Single Judge granted relief to the respondents herein.

Shri K.L.N. Rao, learned counsel appearing for Shri M. Kesava Rao argued that objection to the maintainability of the writ petition should not be entertained by the Division Bench because the same was not pressed before the learned Single Judge. He then submitted that the Court may not finally decide this appeal because Writ Appeal No. 337 of 2007 filed against order passed in Writ Petition No. 27035 of 1996 is pending consideration. However, the learned counsel

could not point out any special feature in the case of the respondents on the basis of which the judgment of the Division Bench can be distinguished.

We have considered the respective submissions and are convinced that the order under challenge is liable to be set aside because while granting relief to the respondents, the learned Single Judge overlooked the objection taken by the appellant to the maintainability of the writ petition, which is duly supported by the judgment of the Division Bench.

In our opinion, the judgment of the Division Bench in Writ Appeal No. 529 of 2000 was binding on the learned Single Judge and it was not open for him to entertain the writ petition filed by the respondents ignoring the law laid down in that case. If at all the learned Single Judge felt that the view expressed by the Division Bench requires re-consideration, then the only course which could be adopted by him was to refer the matter to the Larger Bench. However, the fact of the matter is that the order under challenge does not contain any discussion on the objection raised by the appellant to the maintainability of the writ petition.

Be that as it may, in view of the law laid down by the Division Bench in Writ Appeal No. 529 of 2000, we hold that the writ petition filed by the respondents was not maintainable and the learned Single Judge gravely erred by granting relief to them.

Before concluding, we consider it appropriate to observe that pendency of Writ Appeal No. 337 of 2007 is no ground for not deciding the present appeal. That appeal was admitted because the counsel appearing for the respondents in that case upon whom copy

of the memo of appeal was served did not bother to appear before the Court.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and the writ petition filed by the respondents is dismissed.

As a sequel to disposal of the appeal in the manner indicated above, WAMP. No. 985 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

October 30, 2007

G. ROHINI, J

svs